

March 4, 2019

Mr. Devin Leary  
Human & Rohde, Inc.  
512 Virginia Avenue  
Towson, MD 21286

Re: Susel Property – 8410 Park Heights Avenue  
Forest Buffer Variance  
Tracking #02-19-2927

Dear Mr. Leary:

A request for a variance from the Baltimore County Code, Article 33, Title 3, a Law for the Protection of Water Quality, Streams, Wetlands and Floodplains (i.e. Forest Buffer Law), was received by the Department of Environmental Protection and Sustainability (EPS) on February 12, 2019. The applicant is seeking to subdivide the property into three lots, convert the garage on proposed Lot 1 into a single-family residence, retain the existing residence on proposed Lot 2, and construct a new residence on proposed Lot 3. If granted, the variance would allow the applicant continued use of the driveway, well area, and dry wells/septic pits that have existed on the property well prior to the inception of the Forest Buffer Law. Additionally, the applicant requests a reduction of the Forest Buffer Easement on Lot 3 to provide a reasonable rear yard and maintain the 35-foot setback from the proposed dwelling. If this variance is granted, approximately 0.36 acre of the Forest Buffer Easement will continue to be impacted, and the overall Forest Buffer area will be reduced by 5,632 square feet (sf).

The property is approximately 14.2 acres with tributaries to the Jones Falls (Use-III) running along both the eastern and western property lines in steep stream valleys. Non-tidal wetlands are associated with the tributary along the western property line. Lot 1 currently contains two existing garage buildings, one of which will be converted into a single family dwelling. Lot 2 contains an existing single family dwelling and several outbuildings, including a pool. No buildings or other manmade structures other than the existing driveway exist on Lot 3. Reconfiguration of Lot 3 to eliminate the need to reduce the Forest Buffer Easement is not possible given the space needed for both the dwelling, its proposed septic reserve area, a rear yard, and the required 35-foot setback from the sides of the principal dwelling to this Easement.

No mitigation will be required for continued use of the driveway in the Forest Buffer Easement provided it is not widened or otherwise improved in this buffer. Additionally, EIR does not accept expansion of the Forest Buffer Easement in other forested areas as mitigation, especially when retention of that forest is required given that it is priority for retention (i.e. an EPS-approved forest retention investigation report would be required to authorize its clearing or exclusion from Forest Conservation Easement).

This Department has reviewed your request and has determined that a practical difficulty exists in fully complying with Section 33-3-111 given the topographic and septic area constraints. Furthermore, impacts to water quality would be adequately minimized given that no direct impact to streams or wetlands is proposed, the existing driveway through the Forest Buffer Easement is not proposed to be widened, and the reduction of the Forest Buffer is proposed in mostly unforested areas. Furthermore, the Forest Buffer Easement will be protected by an orange safety fence during construction and clearly marked with protective signage that will remain after construction. Additionally, the applicant proposes to provide mitigation for permanent Forest Buffer loss through the purchase of planting credit in an EPS-approved forest buffer mitigation bank.

Therefore, we will grant this request in accordance with Section 33-3-106 (a)(1) of the Baltimore County Code, with the following conditions:

1. Mitigation for the reduction of the Forest Buffer Easement shall be addressed via the purchase of 5,632 sf of credit in an EPS-approved forest buffer mitigation bank. A letter authorizing this purchase has been provided. The executed bank letter shall be provided to EPS as proof of purchase of the credit prior to minor subdivision approval.
2. "Forest Buffer-Do Not Disturb" signs shall be installed along the Forest Buffer Easement limit at 100-foot intervals or any significant turn prior to EPS approval of issuance of any building or grading permit. Information regarding signs and their suppliers is enclosed for your use.
3. No further reductions of the Forest Buffer Easement and its 35-foot setback shall be granted in developing the proposed minor subdivision.
4. The following note shall appear on all subsequent plans and plats submitted for this project:

"A variance was granted on March 4, 2019 by the Baltimore County Department of Environmental Protection and Sustainability from the Law for the Protection of Water Quality, Streams, Wetlands, and Floodplains. The Forest Buffer Easement and its setback shown hereon reflect the fact that this variance was granted. Conditions were placed on this variance to reduce impacts to water quality including posting of the remaining Forest Buffer Easement and purchase of planting credit in an offsite forest buffer mitigation bank."

5. The Forest Buffer Easement and its Declaration of Protective Covenants shall be recorded in Baltimore County Land Records prior to minor subdivision approval. The Forest Buffer may be combined with the Forest Conservation Easement with one Declaration of Protective Covenants and one line table to simplify recordation.

It is the intent of this Department to approve this variance subject to the above conditions. Any changes to site layout will require submittal of revised plans and a new variance request.

Mr. Devin Leary  
Susel Property  
Forest Buffer Variance  
March 4, 2019  
Page 3

Please have the party responsible for meeting the conditions of this variance sign the statement below and return a signed copy of this letter to this Department within 21 calendar days. Failure to return a signed copy may render this approval null and void, or may result in delays in the processing of plans for this project.

If you have any questions regarding this correspondence, please contact Ms. Libby Errickson at (410) 887-3980.

Sincerely yours,

David V. Lykens  
Acting Director

DVL/lbe

Enclosures (2)

c. Mr. Richard Susel and Ms. Carolyn Susel  
Mr. Dick Matz, Colbert Matz Rosenfelt

I/we agree to the above conditions to bring my/our property into compliance with Article 33, Title 3, Protection of Water Quality, Streams, Wetlands and Floodplains.

\_\_\_\_\_  
Owner's/Developer's Signature      Date

\_\_\_\_\_  
Signature      Date

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Printed Name